

**Franchise Tax Board****ANALYSIS OF AMENDED BILL**

Author: Perea Analyst: Janet Jennings Bill Number: AB 1393  
Related Bills: See Legislative History Telephone: 845-3495 Amended Date: August 15, 2011  
Attorney: Patrick Kusiak Sponsor: \_\_\_\_\_

**SUBJECT:** FTB To Allow Seasonal Clerks The Option To Retain Leave Balances While On Unpaid Leave Due To A Lack Of Work

**SUMMARY**

This bill would amend the Government Code to allow Franchise Tax Board (FTB) Seasonal Clerks to maintain leave balances while on unpaid leave due to a lack of work.

**RECOMMENDATION AND SUPPORTING ARGUMENTS**

Support.

On March 10, 2011, the three-member Franchise Tax Board, as part of the settlement of pending litigation, directed staff to seek legislation to resolve the pending lawsuit with language substantially identical to the language in this bill.

**Summary of Amendments**

The August 15, 2011, amendments removed all of the bill's provisions, related to employment in the entertainment industry, and replaced them with the provisions discussed in this analysis. This is the department's first analysis of the bill.

**PURPOSE OF THE BILL**

According to the author's office, the purpose of this bill is to resolve an inconsistency between the Labor Code and the State Employee International Union (SEIU) Local 1000 Bargaining Unit 4 contract that represents the FTB's Seasonal Clerks.

**EFFECTIVE/OPERATIVE DATE**

This bill would become effective January 1, 2012, and would apply to Seasonal Clerks placed on unpaid leave status due to a lack of work on or after that date.

Board Position:

X  S      \_\_\_\_\_ NA      \_\_\_\_\_ NP  
\_\_\_\_\_ SA      \_\_\_\_\_ O      \_\_\_\_\_ NAR  
\_\_\_\_\_ N      \_\_\_\_\_ OUA

Executive Officer

Date

Selvi Stanislaus

9/01/11

## **ANALYSIS**

### **STATE LAW**

Current state law provides that if an employer discharges an employee, the wages earned and unpaid at the time of discharge are due and payable immediately.<sup>1</sup>

### **Program Background**

Depending on need and budget constraints, state departments may hire seasonal employees due to seasonal or cyclical increases in workloads. The FTB hires Seasonal Clerks, a type of seasonal employee, during tax filing season primarily to receive, open, and sort mail.

Historically, Seasonal Clerks have not been permanently separated from state employment at the end of each season and are called back the next tax season. This practice provides a relatively stable seasonal workforce and avoids the administration and costs associated with permanent separation and rehiring each tax season.

### **THIS BILL**

This bill would amend the Government Code to allow FTB Seasonal Clerks the option to do the following when placed on unpaid leave status due to lack of work:

- Receive a lump-sum payment for accumulated vacation or annual leave balances;
- Utilize vacation or annual leave balances to cover some or all of the time off, upon approval by FTB management;
- Retain the vacation or annual leave balances for use upon returning to work; or
- Utilize a combination of any or all of the actions described above.

These options would be available to Seasonal Clerks put on unpaid leave status due to lack of work, but without permanent separation from state service.

### **IMPLEMENTATION CONSIDERATIONS**

Implementing this bill would not impact the department's programs and operations. It has been a practice of the FTB to allow Seasonal Clerks the option to retain, utilize, or cash out their leave balances when management determines there is a lack of work.

## **FISCAL IMPACT**

This bill would not impact the department's costs.

---

<sup>1</sup> California Labor Code Section 201

## **ECONOMIC IMPACT**

This bill would not impact the state's income tax revenue.

## **SUPPORT/OPPOSITION**

Support: This bill is supported by the three-member Franchise Tax Board to resolve the pending lawsuit with SEIU.

Opposition: None.

## **ARGUMENTS**

Pro: This bill would give FTB Seasonal Clerks the option to retain their leave balances from year to year.

Con: Some may raise an objection to placing in statute a provision that is also contained in a Memorandum of Understanding.

## **LEGISLATIVE STAFF CONTACT**

Janet Jennings

Legislative Analyst, FTB

(916) 845-3495

[Janet.Jennings@ftb.ca.gov](mailto:Janet.Jennings@ftb.ca.gov)

Anne Maitland

Interim Legislative Director, FTB

(916) 845-6333

[Anne.Maitland@ftb.ca.gov](mailto:Anne.Maitland@ftb.ca.gov)